

**COMMITTEE ON LIMITED JURISDICTION COURTS  
MINUTES**

Wednesday, February 17, 2010  
10:00 am to 3:00 pm  
State Courts Building  
Conference Room 345 A/B  
1501 W. Washington Street  
Phoenix, AZ 85007

**MEMBERS PRESENT:**

Honorable Antonio Riojas

Honorable Ted W. Armbruster - *telephonic*

Ms. Valerie A. Avila

Mr. C. Daniel Carrion

Honorable Thomas L. Chotena

Ms. Faye Coakley

Honorable Timothy Dickerson

Honorable Maria Felix

Honorable Sam Goodman

Honorable Nicole Laurin - *telephonic*

Honorable Dorothy Little

Mr. Doug Pilcher

Ms. Marla Randall

Ms. Lisa Royal

Mr. Mark Stodola

**MEMBERS ABSENT:**

Honorable Phillip W. Bain

Honorable Jeffrey A. Klotz

Mr. Patrick Kotecki

Honorable J. Matias Tafoya

**PRESENTERS/GUESTS:**

Mr. David Withey

Mr. Jerry Landau

Ms. Kathy Waters

Ms. Sharon Yates

Ms. Christi Weigand

Ms. Patience Huntwork

Honorable Elizabeth Finn

Ms. Adele May

Ms. Theresa Barrett

Mr. Paul Julien

Mr. Jim Scorza

Ms. Janet Scheiderer

**STAFF:**

Mark Meltzer

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**I. REGULAR BUSINESS**

**A. Welcome and Opening Remarks**

With a quorum present, Judge Antonio Riojas, Chair, called the February 17, 2010, meeting of the Committee on Limited Jurisdiction Courts (LJC) to order at 10:05 am.

Judge Riojas welcomed new member, Valerie Avila, court administrator for the Mohave County Justice Courts.

**B. Approval of Minutes**

The minutes of the October 28, 2009, LJC meeting were presented for approval.

**MOTION:** To approve the minutes of the October 28, 2009, LJC meeting as presented. Motion seconded. Passed unanimously. LJC-10-001

**II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS**

**A. Mandatory Fines and Community Service**

Mr. David Withey, AOC Chief Legal Counsel, addressed the committee on the issue of courts waiving mandatory DUI fines and substituting community service or other work program sanctions. This is reportedly occurring in financial hardship circumstances, such as unemployment or disability, that leave the defendant unable to pay. Mr. Withey explained that AOC legal staff interprets A.R.S. § 28-1389 to say courts cannot waive fines resulting from a DUI case. He noted that that the statute is specific on this point, and does not provide for exception. Thus, if the defendant is unable to pay, the only permissible alternative would be a deferred payment program or a collections process. Members were asked for their views on the issue, and whether any action seemed appropriate.

During discussion, several members expressed the understanding that offering defendants the option to “work off” their fines, is not the same thing as *waiving* the fine, but rather, it is *converting* it in a manner that ensures defendants pay their debt to society. Some members asserted that without the alternate sanctions, courts are faced with escalating accounts receivables. Other members noted that the Fines/Fees and Restitution Enforcement (FARE) program and the Tax Intercept Program (TIP) work effectively in their courts.

Judge Riojas asked if the committee was interested in forming a workgroup to explore the issue further, or if there were any other suggested actions. The committee agreed to accept the legal interpretation of the statute as explained by Mr. Withey and to take no action on the issue at this time. It was suggested that, should concerns or problems on the issue arise at a later date, it could be addressed at that time.

**B. Entry of Guilty Pleas to Class 3 Misdemeanors by Mail**

Judge Riojas reported on an issue raised at the recent Arizona Judicial Council (AJC) meeting concerning a strategic agenda initiative item that would allow for plea by mail or the web for all Class 3 misdemeanors. AJC members cautioned that offenses falling under this provision could include domestic violence and assault cases. It was recommended that this initiative be reviewed and modified to ensure the appropriate cases are included under this provision.

Members discussed several options and determined it would be best to prepare a rule amendment to specifically set forth the types of offenses included in under the

provision. Judge Dickinson volunteered to draft preliminary language for a petition, which can be discussed at the next LJC meeting.

**C. Legislative Update**

Mr. Jerry Landau, AOC Director of Government Affairs, updated members on current pending legislation that may impact the limited jurisdiction courts.

**D. FARE Program Update**

Ms. Christi Weigand, AOC manager of the Court Services Consolidated Collections Unit, briefed the committee on the status of the Debt Set-Off and FARE program collections and the new AZTEC automated receipting process. She also informed members of the new Amnesty program, which is currently being piloted in some courts to determine the collections impact and feasibility of the program. If implemented, the program would target older FARE cases with the goal of improving collections. It is also expected to aid in cleaning up the system prior to the conversion onto the new limited jurisdiction case management system.

**E. A.C.J.A. § 6-207: Uniform Conditions of Supervised Probation**

Ms. Kathy Waters, AOC director of Adult Probation Services, presented proposed changes to ACJA § 6-207: Uniform Conditions of Supervised Probation. She explained that the revisions would incorporate evidence based practices into the Uniform Conditions of Probation and provide for consistency among the state courts and probation departments. Ms. Waters discussed the intended outcome of the code section and reviewed the primary changes to the code, including some minor language changes made at the suggestion of the Committee on Superior Court.

**MOTION:** To approve ACJA § 6-207: Uniform Conditions of Supervised Probation as presented. Motion seconded. Approved unanimously. LJC-10-002

**F. Rule Petitions**

Ms. Patience Huntwork, staff attorney to the Arizona Supreme Court, reported on pending rule change petitions that may impact limited jurisdiction courts. She reminded members they may view rules, pending rule petitions, and amendments to rules on the Arizona Court Rules Forum website. Comments are due by May 20, 2010. The current list of rule petitions can be accessed at the following link:

<http://supreme.state.az.us/rules/List/ListofPendingRuleChangePetitions022508.pdf>

Judge Riojas suggested that members come to the May 5<sup>th</sup> LJC meeting prepared to discuss submission of formal comments by the committee. He requested members draft outlines of any responses they wish to propose. Mr. Meltzer requested that any such drafts should be sent directly to committee staff and not to circulate among members, so as to be compliant with open meeting laws.

**G. Arizona Rules of Protective Order Procedure, Rule 4(B)(5)(b)**

Judge Elizabeth Finn addressed the committee on the recently filed petition to amend Rule 4(B)(5)(b) of the Arizona Rules of Protective Order Procedure (ARPOP). The proposed amendment would require limited jurisdiction courts to transfer protective orders when the protected party is the subject of a custody, parenting time, or visitation order. Currently, Rule 4(A)(1) and (2) both prohibit a limited jurisdiction court from issuing a protective order in cases where there is a family law action *pending* in a superior court. The limited jurisdiction court must instead refer the party to the superior court to obtain an order of protection. In contrast, Rule 4(B)(5)(b) currently provides that where there is an *active* custody order involving the defendant or a child of the defendant, a limited jurisdiction court may issue the ex-parte order, but then must transfer the order to the superior court for any further action. The proposed amendment is intended to clarify and to expand the transfer requirement for protective orders to include injunctions against harassment.

Judge Finn noted that when presented to the Committee on Superior Court (COSC), further discussion of the proposed rule change was recommended. Similarly, when presented to the Committee on the Impact of Domestic Violence and the Courts (CIDVC), the proposal was referred to CIDVC's ARPOP workgroup for additional review and consideration. The workgroup is scheduled to meet on March 8, 2010 and Judge Finn extended a welcome to LJC members who wish to attend. She also requested that members with alternate language suggestions provide them by the March 8<sup>th</sup> meeting date. The rule petition will remain open for comment until May 10, 2010.

**MOTION:** To approve proposed changes to Arizona Rules of Protective Order Procedure, Rule 4(B)(5)(b) as presented.  
Motion seconded. Approved 13-1-0. LJC-10-003

**H. AmCad Update**

Ms. Adele May, AOC project manager for the limited jurisdiction (LJ) case management system (CMS), and Mr. Jim Scorza, senior project consultant, in the AOC Information Technology Division, updated members on the status of the LJ CMS project. Ms. May reviewed the phases of product development, application testing, and the data conversion strategy. She also discussed plans for a pilot court in the fall of 2011, and user trainings that are expected to begin in March 2010.

Mr. Scorza briefly discussed the development of an enhanced version for large-volume courts and the software additions necessary to address large-volume needs. He noted that efforts on the enhancement features are likely to slow development and the 'roll-out' is likely to be toward the end of 2010.

**III. OTHER BUSINESS**

**A. Next Meeting**

Wednesday, May 5, 2010

10:00 am to 3:00 pm

State Courts Building, Room 119 A/B

1501 West Washington

Phoenix, AZ 85004

**B. Good of the Order/Call to the Public**

No comments offered.

The meeting was adjourned at 1:45 pm.